

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

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| ELENA YRIS ROSARIO MENA, | : | |
| Plaintiff | : | Civil Action 2:09-cv-484 |
| v. | : | Judge Marbley |
| PETSMART, | : | Magistrate Judge Abel |
| Defendant | : | |

REPORT AND RECOMMENDATION

Plaintiff Elena Yris Rosario Mena filed this case on June 15, 2009. This matter is now before the Magistrate Judge for an initial screening of the complaint under 28 U.S.C. §1915A(e)(2) to identify cognizable claims, and to dismiss the complaint, or any portion of it, which is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *McGore v. Wigglesworth*, 114 F.3d 601, 608-09 (6th Cir. 1997). **IT IS ORDERED** that Plaintiff Elena Yris Rosario Mena’s application to proceed without prepayment of fees be **GRANTED**.

Ms. Mena has filed her complaint on the Clerk’s standard complaint form for non-prisoner *pro se* litigants. However, her statement of claim is entirely written in the Spanish language. The Court will not conduct an initial review of a complaint which is not filed in English. “The Clerk cannot be ordered to pay for the costs of translating pleadings from a foreign language to the English language.” *Skudnov v.*

Russell, 2009 WL 32846 at *1 (W.D. Ky. Jan. 5, 2009), *quoting Gomez v. Myers*, 627 F.Supp. 183, 187 (E.D. Tex. 1985). Furthermore, Ms. Mena did not check any of the boxes in Part II of the form to indicate the basis for the Court's exercise of subject matter jurisdiction. A complaint in federal court must contain "a short and plain statement of the grounds for the court's jurisdiction". Fed. R. Civ. Pro. 8(a)(1).

Because the Complaint is not in the English language, and because it does not state the grounds for the court's jurisdiction, the Magistrate Judge **RECOMMENDS** that this case be **DISMISSED WITHOUT PREJUDICE**. Ms. Mena may, if she wishes, re-file her complaint in English.

If any party objects to this Report and Recommendation, that party may, within ten (10) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the party thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgement of the District Court. *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also, Small v. Secretary of Health and Human Services*, 892 F.3d 15, 16 (2d Cir. 1989).

s/Mark R. Abel
United States Magistrate Judge